

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**KEVIN POWELL,**  
**Plaintiff**

**v.**

**JOHN E. WETZEL, et al.,**  
**Defendants**

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**No. 1:12-cv-01684**

**(Judge Kane)**

**(Magistrate Judge Schwab)**

**ORDER**

**AND NOW**, on this 24th day of June 2014, **IT IS HEREBY ORDERED THAT** Magistrate Judge Schwab's Report and Recommendation (Doc. No. 78) is **ADOPTED IN PART**.

**IT IS FURTHER ORDERED THAT:**

1. Defendant Wetzel is **DISMISSED** from the above-captioned action;
2. Defendants' motion to dismiss (Doc. No. 53) **IS GRANTED** with respect to Counts Two and Three of Plaintiff's amended complaint, and **DENIED** with respect to Counts One, Four, and Five of Plaintiff's amended complaint; and,
3. The above-captioned action is **REFERRED BACK** to Magistrate Judge Schwab for pretrial management, including the disposition of any pending motions.

S/ Yvette Kane  
Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania